

REMARKS

ELECTION WITH TRAVERSE

Pursuant to 35 U.S.C. §121, the Office Communication mailed January 24, 2007 requires restriction of the claim set comprising claims 1 through 91 to a group of claims comprising one of six inventions identified in the Office Action. The Office Action groups the claims into the following six groups: claims 1-8 (Group I); claims 9-16 and 75-81 (Group II); claims 17-26 and 69-74 (Group III); claims 27-54 (Group IV); claims 55-67 and 82-91 (Group V); and claim 68 (Group VI).

The Restriction Requirement is respectfully traversed for the reasons set forth in the following paragraphs. However, **Group III, consisting of claims 17-26 and 69-74, is provisionally elected.**

The Restriction Requirement is traversed for the following reasons:

It cannot be shown by the Examiner that a search and examination of the entire Application causes a serious burden as required by Section 803 of the MPEP. Accordingly, the Examiner must proceed with examination of all claims, even if they are directed to independent or distinct inventions.

**CRITERIA FOR RESTRICTION BETWEEN
PATENTABLY DISTINCT INVENTIONS**

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).

MPEP § 803 at page 800-4 (Emphasis added).

Contrary to the requirements for a proper Restriction Requirement, maintaining the Restriction Requirement in the present Application places a “serious burden” on the operation of the Patent Office, the public and the applicants. Filing additional Applications directed to the non-elected inventions unnecessarily burdens the Patent Office because it must assume the additional and unnecessary labor involved in examining separate Applications. The public is burdened because it has to locate and review at least two patents (due to the further restriction of an individual species) instead of one in order to fully ascertain the scope of the

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Application No.: 10/655,778

patent protection provided the subject matter in the specification. Finally, the Applicants are burdened because they must bear the expense of filing and prosecuting multiple applications.

In contrast to the burdens to the ongoing operation of the Patent Office, the public and the Applicants, the burden of examining all of the claims currently pending in the Application, instead of just one group of the claims, is negligible. In this regard, any additional searches that the Examiner must conduct for the seven groups of claims are likely to overlap. In fact, a complete search of the claims for Group III is likely to include all, or at least most, of the field of search for the claims of Groups I, II and IV-VI. Therefore, any additional search that may be required for Groups I, II and IV-VI should not create a serious burden for the Examiner.

CONCLUSION

The restriction requirement should be withdrawn. The Applicants respectfully request reconsideration by the Examiner, and withdrawal of the Restriction Requirement.

TELEPHONE CONFERENCE REQUESTED

If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject Application, the Examiner is invited to call the undersigned attorney.

PROCEDURAL MATTERS AND FEES

Applicant believes that no fees are occasioned by the submittal of this paper. If any fees are occasioned by the filing of this paper, however, the Commissioner is authorized to charge those fees, or credit any overpayments to deposit account 50-3505.

Respectfully submitted,

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